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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,738	12/31/2003	John M. Rice	RiceWedge	1837
27119	7590	05/11/2009		
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EXAMINER				
FUQUA, SHAWNTINA T				
ART UNIT		PAPER NUMBER		
3742				
MAIL DATE		DELIVERY MODE		
05/11/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/750,738

**Applicant(s)**

RICE, JOHN M.

**Examiner**

SHAWNTINA FUQUA

**Art Unit**

3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

Prosecution on the merits of this application is reopened for the purpose of entering a new rejection on claims 1-14 considered unpatentable for the reasons indicated below.

#### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 6-8, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Wall et al (US2871848).

Wall et al discloses a pot (18) with a base (Figure 2) suitable for retaining liquid (20), a warming surface (Figure 2), a rectangular, metal spacer/wedge/means to tilt (10) between one portion of the pot base and warming surface to elevate a majority of pot base above and separate from warming surface while tilting pot base relative to warming surface such that a minority of pot base is in direct contact with the warming surface (Figure 2), spacer/wedge/means to tilt is defined by a thickness generally decreasing with decreasing distance from a center of the pot base (Figures 1, 2). In addition, Wall et al discloses a method comprising the steps of placing a spacer (10) upon a warming surface in a location offset from the center, supporting a minority portion of the pot bottom upon spacer and a second minority portion of pot bottom upon

warming surface, a majority portion of pot bottom spaced from but adjacent and elevated with respect to the warming surface and heating the warming surface above ambient to form an air blanket about the pot through thermally induced air convection currents, selectively removing and cleaning the spacer, and selectively removing the pot from the warming surface and spacer and dispensing warm liquid (Figures 1-2; column 1, line 59-column 2, line 10, 26-58).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4, 5, 9, 10, and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wall et al as applied to claims 1-3, 6-8, and 11 above, and further in view of Stoner (US4715269).

Wall et al discloses all of the recited subject matter except a combination beverage/coffee pot and warming surface, a pot retaining feature, an insignia, and a wedge thickness less than a pot retaining feature. Stoner discloses a combination beverage/coffee pot and warming surface (Figure 1) and pot retaining feature (51). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the spacer/wedge/means to tilt of Wall et al in the combination beverage/coffee pot of Stoner because, a spacer/wedge/means to tilt allows the

beverage/coffee to be heated while not in direct contact with the warming surface allowing for a longer lasting fresh taste.

While neither Wall et al nor Stoner discloses an insignia or specific wedge thickness, an insignia and wedge thickness is a matter of design choice and do not patentably distinguish the invention from the prior art.

### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHAWNTINA FUQUA whose telephone number is (571)272-4779. The examiner can normally be reached on Monday-Friday 8-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on (571) 272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Art Unit: 3742

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stf  
April 17, 2009  
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